



State of Wisconsin
2011 - 2012 LEGISLATURE



0082

LRB-0091/P1

MGG:kjf

Fri 9/17 (back to MGA)

Monday 9/17

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

FWF

see att'd

Regen

UPS: There are
some "sub...."
leave for
now

1 AN ACT *to amend* 23.119 (1) (b), 23.45 (1) (d), 23.50 (1), 23.50 (3), 23.53 (1), 23.56
2 (1), 23.57 (1) (intro.), 23.58, 23.62 (1) (intro.), 46.03 (18) (f), 59.54 (14) (g), 71.26
3 (1) (g), 78.01 (2) (e), 78.01 (2m) (f), 78.40 (1), 110.07 (1) (a) 1., 110.07 (3), 322.111,
4 345.11 (1r), 346.94 (1), 800.02 (2) (b), 895.049, 901.053, 938.17 (1) (intro.),
5 940.09 (1m) (b), 940.09 (3), 940.25 (1m) (b), 940.25 (3) and 973.09 (2) (a) 1. d.;
6 and *to create* 20.370 (1) (is), 23.119 (1) (at), 23.335, 341.056 and 343.05 (4) (b)
7 1m. of the statutes; **relating to:** operation of off-highway motorcycles,
8 granting rule-making authority, ^{providing penalties,} and making an appropriation.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

(Sub. (4))

S. 23.335(4)

registration

13

SECTION 1

(17)

SECTION 1. 20.370 (1) (is) of the statutes is created to read:

20.370 (1) (is) *Off-highway motorcycles fees*. All moneys received as fees under~~s. 23.335(2)~~ for grants for safety instruction under s. 23.335 (8) for payments under

the landowner incentive payment program under s. 23.335 (3) and for off-highway

motorcycle projects and law enforcement activities under s. 23.335 (3).

***NOTE: Do you want additional funding generated through a gas tax formula?
See s. 23.25 (1) (dm).

SECTION 2. 23.119 (1) (at) of the statutes is created to read:

23.119 (1) (at) "Off-highway motorcycle" has the meaning given in s. 23.335

(1) (i).

SECTION 3. 23.119 (1) (b) of the statutes is amended to read:

23.119 (1) (b) "Off-highway vehicle" means a motor-driven craft or vehicle
principally manufactured for off-highway use but does not include a snowmobile or

an all-terrain vehicle, or an off-highway motorcycle.

SECTION 4. 23.335 of the statutes is created to read:

23.335 Off-highway motorcycles. (1) DEFINITIONS. In this section:

(b) (a) "Alcohol beverages" has the meaning specified under s. 125.02 (1).

(d) (b) "Approved public treatment facility" has the meaning specified under s.

51.45 (2) (c).

(e) (c) "Controlled substance" has the meaning specified under s. 961.01 (4).

(f) (d) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

(i) (e) "Intoxicant" means any alcohol beverage, controlled substance, controlled

substance analog, or other drug or any combination thereof.

INSERT 2-5

INSERT 2-12

INSERT
2-14INSERT
2-15INSERT
2-19

(j) ~~(h)~~ "Intoxicated operation of an off-highway motorcycle law" means sub. ~~(b)~~ (a) or a local ordinance in conformity therewith or, if the operation of an off-highway motorcycle is involved, s. 940.09 or 940.25.

(m) ~~(g)~~ "Law enforcement officer" has the meaning specified under s. 165.85 (2) (a) and includes a person appointed as a conservation warden by the department under s. 23.10 (1).

(n) ~~(h)~~ "Limited use off-highway motorcycle" means an off-highway motorcycle that is not registered by the department of transportation for use on highways.

(p) ~~(i)~~ "Off-highway motorcycle" means a two-wheeled motor vehicle that is straddled by the operator, that is equipped with handlebars, and that is designed for use off of a highway, regardless of whether it is also designed for use on a highway.

(s) ~~(j)~~ "Off-highway motorcycle route" means a highway or sidewalk designated for use by operators of off-highway motorcycles by the governmental agency having jurisdiction as authorized under this section.

***NOTE: Do you want to include sidewalks in this definition?

(t) ~~(k)~~ "Off-highway motorcycle trail" means a marked corridor on public property or on private lands subject to public easement or lease, designated for use by operators of off-highway motorcycles by the governmental agency having jurisdiction.

(u) ~~(l)~~ "Operate" means to exercise physical control over the speed or direction of an off-highway motorcycle or to physically manipulate or activate any of the controls of an off-highway motorcycle necessary to put it in motion.

(v) ~~(m)~~ "Operation" means the exercise of physical control over the speed or direction of an off-highway motorcycle or the physical manipulation or activation of any of the controls of off-highway motorcycle necessary to put it in motion.

Subsection, is exempt from such registration, or has a ^{reflected} ~~reflected~~ ^{authorized} plate attached in the manner authorized under ~~section~~ ^{para} (5)(c).

(W) ~~(a)~~ "Operator" means a person who operates an off-highway motorcycle, who is responsible for the operation of an off-highway motorcycle, or who is supervising the operation of an off-highway motorcycle.

(X) ~~(e)~~ "Owner" means a person who has lawful possession of an off-highway motorcycle by virtue of legal title or equitable interest in the off-highway motorcycle which entitles the person to possession of the off-highway motorcycle.

(2) REGISTRATION. (a) *Requirement.* No person may operate and no owner may give permission for the operation of an off-highway motorcycle on an off-highway motorcycle trail, or on an off-highway motorcycle route that is a sidewalk, unless the off-highway motorcycle is registered under this ~~section~~ ^{Sub}. No person may operate and no owner may give permission for the operation of a limited use off-highway motorcycle on an off-highway motorcycle route unless the limited use off-highway motorcycle is registered under this ~~section~~ ^{Sub}.

****NOTE: Do you not want any exemptions, especially for OHMs registered out of state? See the ones for ATVs under s. 23.33 (2)(b).

(c) ~~(b)~~ *Fees.* The department by rule shall establish fees for issuing, renewing, and transferring off-highway motorcycle registrations and for issuing duplicate registrations. The fees shall be set in amounts that are comparable to the corresponding fees for all-terrain vehicles under s. 23.33 (2) (c) to (e).

****NOTE: This draft requires the fees to be set by rule. OK?

(d) ~~(c)~~ *Effective period.* An off-highway motorcycle registration issued under this subsection is valid for a 2-year period.

****NOTE: The drafting instructions appear to be in conflict. They state that registrations are to be for 2 years, but an annual sticker is needed. Let me know if you want any changes.

****NOTE: Do you want an OHM to display a registration sticker?

INSERT
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(d) Receipt of fees. All fees remitted to or collected by the department under ~~par.~~
~~subd. (b)~~ this subsection shall be credited to the appropriation account under s. 20.370 (1) (is).

(a) RULES OF OPERATION. No person may operate an off-highway motorcycle:

1. ~~(a)~~ In any careless way so as to endanger ~~the~~ ^{another} person or ~~the~~ ^{the} property of another.

3. ~~(a)~~ On ~~the~~ private property ~~of another~~ without the consent of the owner or

lessee. Failure to post private property does not imply consent for off-highway

motorcycle use.

4. ~~(a)~~ On public property that is posted as closed to off-highway motorcycle

operation or on which the operation of an off-highway motorcycle is prohibited by

law.

5. ~~(a)~~ On Indian lands without the consent of the tribal governing body or Indian

owner. Failure to post Indian lands does not imply consent for off-highway

motorcycle use.

****NOTE: I added ~~par. (c) and (d)~~ relating to operation on public property and Indian lands because I thought they are necessary. ~~I do not think the intent is to allow persons to operate motorcycles throughout a public forest for example~~

~~(a)~~ ~~(a)~~ To drive or pursue any animal except as a part of normal farming operations involving the driving of livestock.

~~(a)~~ ~~(a)~~ On an off-highway motorcycle ~~trail~~ ^{At a speed exceeding 10 miles per hour, if} within 150 feet of a dwelling ~~at a speed~~ ^{the} exceeding 10 miles per hour.

~~(a)~~ ~~(a)~~ In a manner which violates rules promulgated by the department.

(b) (7) (4) USE OF PROTECTIVE HEADGEAR. (a) No person under the age of 18 may operate

or be a passenger on an off-highway motorcycle that is being operated on an

off-highway motorcycle trail or an off-highway motorcycle route without wearing

protective headgear of a type that is approved by the department.

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p. 6
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subd. 4. and 5.

INSERT 5-15

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INSERT 5-18

ON HIGHWAYS, LIMITED USE MOTORCYCLES

(b) No person may operate or be a passenger on an off-highway motorcycle that is being operated on an off-highway motorcycle trail or on an off-highway motorcycle route without wearing glasses, wearing goggles, or wearing a protective face shield that is attached to headgear approved by the department. (a) Generally. (d)

insert natural from P. 5 (a) (5) OPERATION ON HIGHWAYS. No person may operate a limited use off-highway motorcycle on the portion of any highway unless one of the following applies:

1. (a) Operation on the roadway is necessary to cross the roadway. The crossing of a roadway is authorized only if the crossing is done in the most direct manner practicable, if the crossing is made at a place where no obstruction prevents a quick and safe crossing, and if the operator stops the limited use off-highway motorcycle prior to the crossing and yields the right-of-way to other vehicles, pedestrians, and electric personal assistive mobility devices, as defined in s. 340.01 (15pm), that are using the roadway.

(b) Operation is done with due regard to safety and is authorized by rules that are promulgated by the department of natural resources, after the department of natural resources has consulted with the department of transportation.

(c) Operation is on an off-highway motorcycle route.

***NOTE: Please review the other situations where ATVS are allowed on highways under s. 23.33 (4) (d) and (e) and let me know if you want any additions?

(6) INTOXICATED OPERATION. (a) Prohibition. No person may operate an off-highway motorcycle while under the influence of an intoxicant to a degree which renders him or her incapable of safely operating the off-highway motorcycle.

***NOTE: Based on the drafting instructions, I did not include any of the provisions found under s. 23.33 relating to operating with certain alcohol concentrations, operating while under the influence of restricted controlled substances, causing injury while intoxicated, preliminary breath screening, implied consent, or arresting procedures. See s. 23.33 (4c), (4g), (4L), (4p), and (4x).

INSERT
6-20

1 ~~no~~ ~~4~~ ~~(a) (b)~~ ^{of law} *Applicability*. The intoxicated operation of an off-highway motorcycle law
2 applies to all of the following:

3 1. The operation of an off-highway motorcycle on any off-highway motorcycle
4 trail or any off-highway motorcycle route.

5 2. The operation of any off-highway motorcycle on other premises or areas held
6 out to the public for use of off-highway motorcycles whether such premises or areas
7 are publicly or privately owned and whether or not a fee is charged for the use of an
8 off-highway motorcycle.

9 3. The operation of a limited use off-highway motorcycle on a highway as
10 ~~authorized~~ ^{provided} under sub. (5) ~~(a) or (b).~~

11 (c) *Arrests*. If a law enforcement officer arrests a person for a violation of the
12 intoxicated operation of an off-highway motorcycle law, the law enforcement officer
13 shall notify the department of the arrest as soon as practicable.

14 ~~(5)~~ PUBLIC EDUCATION PROGRAM. (a) The department shall promulgate rules to
15 provide for a public education program to do all of the following:

16 1. Inform off-highway motorcycle operators of the prohibitions and penalties
17 included in the intoxicated operation of an off-highway motorcycle law.

18 2. Provide for the development of signs briefly explaining the intoxicated
19 operation of an off-highway motorcycle law.

20 (b) The department shall develop and issue an educational pamphlet on the
21 intoxicated operation of an off-highway motorcycle law.

22 ~~(8)~~ INSTRUCTIONAL SAFETY COURSES. (a) *Establishment of courses*. The
23 department shall supervise any course of instruction related to off-highway
24 motorcycle safety that may be established by organizations under this subsection.

25 Any such course shall include instruction on off-highway motorcycle regulation and

1 safety, the intoxicated operation of an off-highway motorcycle law, and related
2 subjects. The department shall establish requirements for this instruction and shall
3 evaluate the content of the instruction.

****NOTE: Do you not want any minimum age requirement for the operation of a
limited use off-highway motorcycle?

4 (b) *Grants.* The department shall establish a program to award grants for
5 courses of instruction established under par. (a) to organizations that meet the
6 eligibility requirements under par. (c). (d)

7 (c) *Eligibility.* To be eligible for a grant ^{under the program established under par. (a)}
8 shall meet all of the following requirements:

- 9 1. The organization is a nonstock corporation organized in this state.
- 10 2. The organization promotes the operation of off-highway motorcycles in a
11 manner that is safe and responsible and that does not harm the environment.
- 12 3. The organization promotes the operation of off-highway motorcycles in a
13 manner that does not conflict with the laws, rules, and departmental policies that
14 relate to the operation of off-highway motorcycles.
- 15 4. The interest of the organization is limited to the recreational operation of
16 off-highway motorcycles on off-highway motorcycle routes, off-highway motorcycle
17 trails, and other areas that are off the highways.
- 18 5. The organization has a board of directors that has a majority of members who
19 are representatives of off-highway motorcycle clubs.
- 20 6. The organization provides support to off-highway motorcycle clubs.

****NOTE: Section 23.33 has a definition of "ATV club." Do you want a similar
definition for this legislation? See s. 23.33 (1) (bc).

the program established under par. (a)

(d) *Use of grants.* An organization receiving a grant under this subsection shall use the grant moneys to establish, promote, and provide support to ~~any course of instruction it establishes~~ *the program* by conducting activities that include all of the following:

1. Collecting data on the recreational operation of off-highway motorcycles.

2. Providing assistance in locating, recruiting, and training instructors for ~~any course of instruction it establishes~~ *the program*.

3. Attempting to increase participation by current and future off-highway motorcycle operators and owners in ~~any course of instruction it establishes~~ *the program*.

4. Assisting the department of natural resources and the department of tourism in creating an outreach program to inform local communities of appropriate use of off-highway motorcycles in their communities and of the economic benefits that may be gained from promoting tourism to attract off-highway motorcycle operators.

5. Attempting to improve and maintain ~~its~~ *the organization's* relationship with all of the following:

a. The department of natural resources.

b. The department of tourism.

c. Off-highway motorcycle dealers and manufacturers.

***NOTE: Section 23.33 has a definition of "ATV dealer" and "ATV manufacturer." Do you want similar definitions for this legislation? See s. 23.33 (1) (bd) and (bp).

d. Off-highway motorcycle clubs.

***NOTE: Section 23.33 has a definition of "ATV club." Do you want a similar definition for this legislation? See s. 23.33 (1) (bc).

e. Off-highway motorcycle alliances.

***NOTE: Chapter 350 has a definition of "snowmobile alliance." Do you want a similar definition for this legislation? See s. 350.138 (1) (d).

f. All-terrain vehicle clubs, as defined in s. 23.33 (1) (bc), *and other organizations that promote the recreational operation of all terrain vehicles.*

1 g. Snowmobile clubs, as defined in 350.138 (1) (e).

2 6. Recruiting, assisting in the training of, and providing support to a corps of
3 volunteers that will assist in providing instruction on the safe and responsible
4 operation of off-highway motorcycles that is given in the field to off-highway
5 motorcycle operators.

6 7. Publishing a manual in cooperation with the department that shall be used
7 to train volunteers in monitoring the recreational operation of off-highway
8 motorcycles for safety issues and other issues that relate to the responsible operation
9 of off-highway motorcycles. *The manual may be part of a larger manual*
10 *that is*

11 (e) *Payment of grants.* The department shall pay the grants under this
subsection from the appropriation under s. 20.370 (1) (is).

12 ~~(13) (9)~~ LANDOWNER INCENTIVE PAYMENT PROGRAM. (a) In this subsection "public ^{← INSERT} ~~10~~ ^{10a}
13 off-highway motorcycle corridor" means an off-highway motorcycle trail or other
14 established off-highway motorcycle corridor that is open to the public but does not
15 include an off-highway motorcycle route.

****NOTE: I defined "public off-highway motorcycle corridor" based on the
definition found in s. 23.33 (2j).

16 (b) The department shall establish a program to make incentive payments to
17 private landowners who permit public off-highway motorcycle corridors on their
18 lands and who apply for the payments.

19 (c) An application is not considered complete until the forester or another
20 employee of each county in which the public off-highway motorcycle corridor is
21 located measures the length of the corridor in that county for the purpose of
22 calculating the payment.

unless it is equipped with

(d) The department shall allocate a certain amount for the incentive payments under this program for each fiscal year and shall promulgate rules to determine the amount of the individual incentive payments. If the total amount of incentive payments made in a given fiscal year would exceed the amount available for the payments, the department shall establish a system to prorate the payments.

(e) The department shall make the incentive payments under this subsection from the appropriation under s. 20.370 (1) ~~(is)~~.

No person may

Lights.

(14) ~~(10)~~ EQUIPMENT REQUIREMENTS. (a) ~~A person who operates~~ an off-highway motorcycle during hours of darkness ~~is required to display~~ a lighted headlamp and

a lighted

~~tail lamp on the off-highway motorcycle.~~ The headlamp is required to display a

white light of sufficient illuminating power to reveal any person, vehicle, or

substantial object at a distance of at least 200 feet ahead of the off-highway

motorcycle. The tail lamp is required to display a red light plainly visible from a

distance of 500 feet to the rear.

(b) ~~A person who operates~~ an off-highway motorcycle ~~is required to have the~~

unless it is

~~off-highway motorcycle~~ equipped with all of the following:

1. At least one brake operated either by hand or by foot.

2. Foot rests or pegs for the operator and any passenger.

3. A functioning muffler ~~to prevent excessive or unusual noise and with a~~

functioning spark arrester of a type approved by the U.S. forest service.

unless

(c) No person may operate an off-highway motorcycle ~~on~~ the off-highway

motorcycle is constructed in such a manner that noise emitted from the off-highway

motorcycle ~~exceeds~~ *does not* 96 decibels on the A scale as measured in the manner required

~~under~~ rules promulgated by the department.

**** NOTE: ...*

4. A functioning muffler *unless the off-highway motorcycle is propelled by electric power*

read the whole thing

****NOTE: As drafted the provisions under sub. (10) apply wherever the off-highway motorcycle is being operated, whether on private or public property, highways, or trails or routes.

INSERT
12-1

1 (15) ~~(11)~~ ACCIDENTS. (a) If an operator of an off-highway motor vehicle is involved
2 in an accident that results in the death of any person or in the injury of any person
3 which requires the treatment of the person by a physician, the operator of each
4 off-highway motorcycle involved in the accident shall give notice of the accident to
5 a conservation warden or local law enforcement officer as soon as possible and shall
6 file a written report of the accident with the department on the form provided by it
7 within 10 days after the accident.

****NOTE: I kept the phrase "by a physician" in this provision; otherwise any treatment by anyone would result in the reporting requirement.

8 (b) If the operator of an off-highway motorcycle is physically incapable of
9 making the report required ^{under par. (a)} ~~by this subsection~~ and there was another witness to the
10 accident capable of making the report, the witness may make the report.

11 (16) ~~(12)~~ TRAILS AND ROUTES. (a) *Department authority*. The department shall
12 encourage and supervise a system of off-highway motorcycle trails and off-highway
13 motorcycle routes. The department may establish standards and procedures for
14 designating off-highway motorcycle trails and off-highway motorcycle routes.

15 (b) *Trails*. A city, village, town, or county ^{local governmental unit} or the department may designate
16 corridors through land which it owns or controls, or for which it obtains leases,
17 easements, or permission, for use as off-highway motorcycle trails. ^{INSERT 12-17}

18 (c) *Routes*. A city, village, town, or county ^{local governmental unit} may designate highways as
19 off-highway motorcycle routes. No state trunk highway or connecting highway may
20 be designated as an off-highway motorcycle route unless the department of
21 transportation approves the designation. ^{INSERT 12-18}

*(d) The city, village, town, or county under par. (a) and (b) does not
apply to the city, village, town, or county which is the owner of the off-highway
motorcycle route and that is not open to the public and with the
landowner's consent.*

1

(d) *Restrictions.* The designating ^{local governmental unit} authority may specify effective periods for the use of off-highway motorcycle trails and off-highway motorcycle routes and may restrict or prohibit the operation of off-highway motorcycles during certain periods of the year.

5

(e) *Signs.* The department, in cooperation with the department of transportation, shall establish uniform signs and standards for off-highway motorcycle trails and off-highway motorcycle routes.

8

(f) *Interference with signs and standards prohibited.* 1. No person may intentionally remove, damage, deface, move, or obstruct any uniform off-highway motorcycle trail or off-highway motorcycle route sign or standard or intentionally interfere with the effective operation of any such sign or standard if the sign or standard is legally placed by the state, any municipality, or any authorized individual.

14

2. No person may possess any uniform sign or standard of the type established by the department under par. (e) that is placed for the warning, instruction, or information of the public, unless he or she obtained the sign or standard in a lawful manner. Possession of a such a sign or standard creates a rebuttable presumption of illegal possession.

18

19

(17) ~~(13)~~ ENFORCEMENT ACTIVITIES AND PROJECTS; FUNDING. (a) *Enforcement* activities. The department may utilize moneys received ^{as fees} under sub. ^S (2) ^{(4) and (5)} for off-highway motorcycle registration aids administration and for state and local law enforcement operations related to off-highway motorcycles, including actual enforcement, accident reporting, and similar activities.

24

(b) *Off-highway motorcycle projects.* The department may use funding from the appropriation under s. 20.370 (1) (is) for off-highway motorcycle projects that are

25

local governmental units

undertaken by the state or by cities, villages, towns, or counties. Any of the following off-highway motorcycle projects are eligible for funding as either project is undertaken:

1. Acquisition of an easement or land in fee simple.
2. An off-highway motorcycle facility such as a parking area, riding area, shelter, toilets, or other improvement.
3. Development of off-highway motorcycle routes or off-highway motorcycle trails.

4. Development or maintenance of an all-terrain vehicle trail, route, or facility or a snowmobile trail, route, or facility, if the trail, route, or facility is open for use by off-highway motorcycles.

5. Maintenance of off-highway motorcycle trails and off-highway motorcycle routes.

6. Purchase of liability insurance.

(c) *Signs*. In addition to the projects listed in par. (b), the department may provide aid under this subsection to a city, village, town, or county for up to 100 percent of the cost of placing signs developed under sub. (7) ~~(a) 2.~~

~~(18)~~ ~~(14)~~ LIABILITY OF LANDOWNERS. Section 895.52 applies to this section.

****NOTE: I have included the above provisions which cross-reference to s. 895.52 because motorcycling is a recreational activity under s. 895.52. See s. 895.52 (1) (a).

~~(19)~~ ~~(15)~~ LOCAL ORDINANCES. (a) Any city, village, town, or county may enact an ordinance which is in strict conformity with this section and rules promulgated by the department under this section, if the ordinance encompasses all aspects encompassed by this section.

****NOTE: The provisions under s. 23.33 (11) (a) and (am) 1. really do not mesh. Therefore, I have rewritten s. 23.33 (15) to reconcile those two provisions.

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motorcycles

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are

local governmental unit

← INSERT 14-17

local governmental unit

local governmental unit

enacts

(b) If a city, village, town, or county ~~adopts~~ ^{enacts} an ordinance regulating off-highway motorcycles, its clerk shall immediately send a copy of the ordinance to the department and to the office of any law enforcement agency of the municipality or county having jurisdiction over any highway designated as an off-highway motorcycle route.

A law enforcement officer

(20) ~~(16)~~ ENFORCEMENT. (a) ~~An officer of the state traffic patrol under s. 110.07 (1), inspector under s. 110.07 (3), conservation warden appointed by the department under s. 23.10, county sheriff, or municipal peace officer~~ ^{the} has authority and jurisdiction to enforce this section and ordinances enacted in accordance with this section.

(b) No operator of an off-highway motorcycle may refuse to stop after being requested or signaled to do so by a law enforcement officer, or a commission warden, as defined in s. 939.22 (5).

(21) ~~(17)~~ PENALTIES. (a) *Generally.* Except as provided in ~~par.~~ ^{par.} (b) [✓] and [✓] (c), any person who violates this section shall forfeit not more than \$250.

(b) *Penalty related to interference with signs and standards.* Except as provided in subd. 2., a person who violates sub. (12) (f) and who, within the last 2 years prior to the arrest for the current violation, was 2 or more times previously convicted for violating a provision of this chapter shall forfeit not more than \$500.

2. A person who violates sub. (12) (f) 1. is guilty of a Class H felony if the violation causes the death or injury, as defined in s. 30.67 (3) (b), of another person

(b) ~~(a)~~ *Penalties related to intoxicated operation of an off-highway motorcycle.* 1. Except as provided under subds. 2. and 3., a person who violates sub. ~~(6)~~ ⁽¹¹⁾ (a) shall forfeit not less than \$150 nor more than \$300.

xxxxx by [unclear]

1 2. Except as provided under subd. 3., a person who violates sub. (11) (a) and who,
2 within 5 years prior to the arrest for the current violation, was convicted previously
3 under the intoxicated operation of an off-highway motorcycle law shall be fined not
4 less than \$300 nor more than \$1,100 and shall be imprisoned not less than 5 days
5 nor more than 6 months.

6 3. A person who violates sub. (11) (a) and who, within 5 years prior to the arrest
7 for the current violation, was convicted 2 or more times previously under the
8 intoxicated operation of an off-highway motorcycle law shall be fined not less than
9 \$600 nor more than \$2,000 and shall be imprisoned not less than 30 days nor more
10 than one year in the county jail.

***NOTE: Section 23.33 has a penalty enhancer for intoxicated operation when
there is an underage passenger involved. Do you want a similar provision? See s. 23.33

(13) (bg).

*** NOTE: Editing note. The penalties under sub. (21) (b)
and elsewhere in sub. (21) must be reworked. ← reworked

11 (d) Calculation of previous convictions. In determining the number of previous
12 convictions under par. (b) 2. and 3., convictions arising out of the same incident or
13 occurrence shall be counted as one previous conviction.

14 (e) Reporting convictions to the department. Whenever a person is convicted
15 of a violation of the intoxicated operation of an off-highway motorcycle law, the clerk
16 of the court in which the conviction occurred, or the justice, judge, or magistrate of
17 a court not having a clerk, shall forward to the department the record of such
18 conviction. The record of conviction forwarded to the department shall state whether
19 the offender was involved in an accident at the time of the offense.

20 (f) Alcohol, controlled substances, or controlled substance analogs; assessment.
21 In addition to any other penalty or order, a person who violates sub. (11) (a) shall be
22 ordered by the court to submit to and comply with an assessment by an approved
23 public treatment facility for an examination of the person's use of alcohol, controlled

substances, or controlled substance analogs. The assessment order shall comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an assessment ordered under this paragraph constitutes contempt of court, punishable under ch. 785.

(g) *Restoration or replacement of signs and standards.* In addition to any other penalty, the court may order the defendant to restore or replace any uniform off-highway motorcycle trail or off-highway motorcycle route sign or standard that the defendant removed, damaged, defaced, moved, or obstructed.

SECTION 5. 23.45 (1) (d) of the statutes is amended to read:

23.45 (1) (d) "Registration" means any registration documentation, as defined in s. 23.33 (1) (jn) or s. 350.01 (10t), ~~a registration under s. 23.335 (2),~~ or certification or registration documentation, as defined in s. 30.50 (3b), issued by the department or its agents.

SECTION 6. 23.50 (1) of the statutes is amended to read:

23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2), subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any administrative rules promulgated thereunder, violations specified under s. 280.98 (2) or 285.86, violations of ch. 951 if the animal involved is a captive wild animal, violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k), violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), ~~23.335 (15) (a),~~ or 30.77.

1 **SECTION 7.** 23.50 (3) of the statutes is amended to read:

2 23.50 (3) All actions in municipal court to recover forfeitures, plus costs, fees,
3 and surcharges imposed under ch. 814, for violations of local ordinances enacted by
4 any local authority in accordance with s. 23.33 (11) (am), 23.335 (19) (a), or 30.77
5 shall utilize the procedure in ch. 800. The actions shall be brought before the
6 municipal court having jurisdiction. Provisions relating to citations, arrests,
7 questioning, releases, searches, deposits, and stipulations of no contest in ss. 23.51
8 (1m), (3), and (8), 23.53, 23.54, 23.56 to 23.64, 23.66, and 23.67 shall apply to
9 violations of such ordinances.

10 **SECTION 8.** 23.53 (1) of the statutes is amended to read:

11 23.53 (1) The citation created under this section shall, in all actions to recover
12 forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of
13 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated
14 thereunder, and any rule of the Kickapoo reserve management board under s. 41.41
15 (7) (k) be used by any law enforcement officer with authority to enforce those laws,
16 except that the uniform traffic citation created under s. 345.11 may be used by a
17 traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law
18 enforcement agency of a municipality or county or a traffic officer employed under
19 s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall
20 not be used for violations of ch. 350 relating to highway use. The citation may be used
21 for violations of local ordinances enacted by any local authority in accordance with
22 s. 23.33 (11) (am), 23.335 (19) (a), or 30.77.

23 **SECTION 9.** 23.56 (1) of the statutes is amended to read:

24 23.56 (1) A person may be arrested for a violation of those statutes enumerated
25 in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the

1 Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances
2 enacted by any local authority in accordance with s. 23.33 (11) (am), ~~23.335 (15) (a)~~,
3 or 30.77, after a warrant that substantially complies with s. 968.04 has been issued. (19) ✓

4 Except as provided in sub. (2), the person arrested shall be brought without
5 unreasonable delay before a court having jurisdiction to try the action.

6 **SECTION 10.** 23.57 (1) (intro.) of the statutes is amended to read: INSERT 19-5

7 23.57 (1) (intro.) A person may be arrested without a warrant when the
8 arresting officer has probable cause to believe that the person is committing or has
9 committed a violation of those statutes enumerated in s. 23.50 (1), any
10 administrative rules promulgated thereunder, any rule of the Kickapoo reserve
11 management board under s. 41.41 (7) (k), or any local ordinances enacted by any local
12 authority in accordance with s. 23.33 (11) (am), ~~23.335 (15) (a)~~, or 30.77; and: (19) ✓

13 **SECTION 11.** 23.58 of the statutes is amended to read:

14 **23.58 Temporary questioning without arrest.** After having identified
15 himself or herself as an enforcing officer, an enforcing officer may stop a person in
16 a public place for a reasonable period of time when the officer reasonably suspects
17 that such person is committing, is about to commit or has committed a violation of
18 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated
19 thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7)
20 (k), or any local ordinances enacted by any local authority in accordance with s. 23.33
21 (11) (am), ~~23.335 (15) (a)~~, or 30.77. Such a stop may be made only where the enforcing
22 officer has proper authority to make an arrest for such a violation. The officer may
23 demand the name and address of the person and an explanation of the person's
24 conduct. Such detention and temporary questioning shall be conducted in the
25 vicinity where the person was stopped.

1 **SECTION 12.** 23.62 (1) (intro.) of the statutes is amended to read:

2 23.62 **(1)** (intro.) Whenever an enforcing officer has probable cause to believe
3 that a person subject to his or her authority is committing or has committed a
4 violation of those statutes enumerated in s. 23.50 (1), any administrative rules
5 promulgated thereunder, any rule of the Kickapoo reserve management board under
6 s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance
7 with s. 23.33 (11) (am), ~~23.335 (15) (a)~~ ^{(11) ✓} or 30.77, the officer may proceed in the
8 following manner:

9 **SECTION 13.** 46.03 (18) (f) of the statutes is amended to read:

10 46.03 **(18)** (f) Notwithstanding par. (a), any person who submits to an
11 assessment or airman or driver safety plan under s. 23.33 (13) (e), ~~23.335 (17) (a)~~ ^{(21) (f) ✓}
12 30.80 (6) (d), 114.09 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d)
13 shall pay a reasonable fee therefor to the appropriate county department under s.
14 51.42 or traffic safety school under s. 345.60. A county may allow the person to pay
15 the assessment fee in 1, 2, 3 or 4 equal installments. The fee for the airman or driver
16 safety plan may be reduced or waived if the person is unable to pay the complete fee,
17 but no fee for assessment or attendance at a traffic safety school under s. 345.60 may
18 be reduced or waived. Nonpayment of the assessment fee is noncompliance with the
19 court order that required completion of an assessment and airman or driver safety
20 plan. Upon a finding that the person has the ability to pay, nonpayment of the
21 airman or driver safety plan fee is noncompliance with the court order that required
22 completion of an assessment and airman or driver safety plan.

23 **SECTION 14.** 59.54 (14) (g) of the statutes is amended to read:

24 59.54 **(14)** (g) A county may establish extensions of the jail, which need not be
25 at the county seat, to serve as places of temporary confinement. No person may be

1 detained in such an extension for more than 24 consecutive hours, except that a court
2 may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. or 3. or (c),
3 23.335 (17) (c) 2. or 3. or 350.11 (3) (a) 2. or 3. or (b) be imprisoned for more than 24
4 consecutive hours in such an extension. Jail extensions shall be subject to plans and
5 specifications approval by the department of corrections and shall conform to other
6 requirements imposed by law on jails, except that cells may be designed and used for
7 multiple occupancy.

8 **SECTION 15.** 71.26 (1) (g) of the statutes is amended to read:

9 71.26 (1) (g) For taxable years beginning after December 31, 2006, the amount
10 of any incentive payment received by an individual under s. 23.33 (5r) or 23.335 (9)
11 in the taxable year to which the claim relates.

12 **SECTION 16.** 78.01 (2) (e) of the statutes is amended to read:

13 78.01 (2) (e) Gasoline sold for nonhighway use in mobile machinery and
14 equipment; other than use in a snowmobile, in an off-highway motorcycle, in an
15 all-terrain vehicle ^{plain →} that is not registered for private use under s. 23.33 (2) (d), or in
16 a recreational motorboat; and delivered directly into the consumer's storage tank in
17 an amount of not less than 100 gallons.

18 **SECTION 17.** 78.01 (2m) (f) of the statutes is amended to read:

19 78.01 (2m) (f) It is dyed diesel fuel and is sold for off-highway use other than
20 use in a snowmobile, in an off-highway motorcycle, in an all-terrain vehicle ^{plain ↓} that is
21 not registered for private use under s. 23.33 (2) (d) or (2g), or in a recreational
22 motorboat or if no claim for a refund for the tax on the diesel fuel may be made under
23 s. 78.75 (1m) (a) 3.

24 **SECTION 18.** 78.40 (1) of the statutes is amended to read:

that is not registered for private use
under 6.23.335 (3) (a) 1.

78.40 (1) IMPOSITION OF TAX AND BY WHOM PAID. An excise tax at the rate determined under ss. 78.405 and 78.407 is imposed on the use of alternate fuels. The tax, with respect to all alternate fuel delivered by an alternate fuel dealer into supply tanks of motor vehicles in this state, attaches at the time of delivery and shall be collected by the dealer from the alternate fuels user and shall be paid to the department. The tax, with respect to alternate fuels acquired by any alternate fuels user other than by delivery by an alternate fuel dealer into a fuel supply tank of a motor vehicle, ~~or of a snowmobile, of an off-highway motorcycle, of an all-terrain vehicle~~ ^{or utility terrain vehicle} ~~that is not registered for private use under s. 23.33 (2) (d) or (2g), or of a recreational motorboat,~~ attaches at the time of the use of the fuel and shall be paid to the department by the user. The department may permit any supplier of alternate fuels to report and pay to the department the tax on alternate fuels delivered into the storage facility of an alternate fuels user or retailer which will be consumed for alternate fuels tax purposes or sold at retail.

SECTION 19. 110.07 (1) (a) 1. of the statutes is amended to read:

110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and chs. 194, 218, 341 to 349 and 351, and ss. 23.33, 23.335, 125.07 (4) (b), 125.085 (3) (b), 167.31 (2) (b) to (d) and 287.81 and ch. 350 where applicable to highways, or orders or rules issued pursuant thereto.

SECTION 20. 110.07 (3) of the statutes is amended to read:

110.07 (3) The secretary may employ inspectors who may not wear the uniform of the state patrol, whose duties shall be to enforce and assist in administering ~~s. ss.~~ 23.33, 23.335, 346.63, this chapter and chs. 194, 218, 340 to 345 and 347 to 351, ~~s.~~ 23.33, the inspection requirements of s. 121.555 (2) (b) and the requirements under s. 346.45 (4) for vehicles being used to transport hazardous materials. Such

1 inspectors, in the performance of these duties, shall have the powers and authority
2 of state traffic officers. For the purpose of death, disability and retirement coverage,
3 such inspectors shall be subject to ch. 40 as is the state traffic patrol. Subject to sub.
4 (5), the secretary may clothe and equip inspectors as the interest of public safety and
5 their duties require.

6 SECTION 21. 322.111 of the statutes is amended to read:

7 322.111 Article 111 — ~~Drunken or reckless operation of an all-terrain~~
8 ~~vehicle, vehicle~~ certain vehicles, snowmobile, aircraft, or vessel. Any person
9 who violates s. 23.33 (3) (a) or (4c), 23.335 (8)(a) or (4)(a), 30.68, 30.681, 114.09,
10 346.62, 346.63 (1) or (2), 350.10 (1) (b), 350.101, 940.25, or 940.09 where the offense
11 involved the operation or physical control of an aircraft, all-terrain vehicle,
12 utility train vehicle, snowmobile, vehicle or vessel on or off a highway shall be punished as the
13 court-martial may direct.

14 SECTION 22. 341.056 of the statutes is created to read:

15 341.056 Off-highway motorcycles. Limited use off-highway motorcycles,
16 as defined in s. 23.335 (1) (n), are not required to be registered under this chapter but
17 shall be registered under s. 23.335 (2). (3) ✓

18 SECTION 23. 343.05 (4) (b) 1m. of the statutes is created to read:

19 343.05 (4) (b) 1m. A person while operating a limited use off-highway
20 motorcycle, as defined in s. 23.335 (1) (n). (n) ✓

21 SECTION 24. 345.11 (1r) of the statutes is amended to read:

22 345.11 (1r) The uniform traffic citation or the citation form under s. 23.54 shall
23 be used for violations of s. 23.33 ~~relating~~ or 23.335 that relate to highway use or
24 ordinances enacted in accordance with that section if the violation is committed on
25 a highway, but no points may be assessed against the driving record of the operator

← plain
24 -
or, utility terrain vehicle

of an all-terrain vehicle. When the uniform traffic citation is used, the report of ^{defined} conviction shall be forwarded to the department. When the citation form under s. ^{in s.} 23.54 is used, the procedure in ss. 23.50 to 23.85 applies. ^{23.335(1)(a)}

SECTION 25. 346.94 (1) of the statutes is amended to read:

346.94 (1) DRIVING ON SIDEWALK. Except as authorized in s. 23.33 (4) (f) or when the sidewalk is an all-terrain vehicle route, as defined in s. 23.33 (1) (c) or an off-highway motorcycle route, as defined in s. 23.335 (1) (a), the operator of a vehicle shall may not drive upon any sidewalk area except at a permanent or temporarily established driveway unless permitted to do so by the local authorities.

SECTION 26. 800.02 (2) (b) of the statutes is amended to read:

800.02 (2) (b) Except for parking violations, in traffic regulation actions in municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu of the citation form specified in par. (ag). In actions for violations of local ordinances enacted in accordance with s. 23.33 (11) (am), ⁽¹⁹⁾ 23.335 (15) (a), or 30.77, the citation form specified in s. 23.54 shall be used in lieu of the citation form specified in par. (ag).

SECTION 27. 895.049 of the statutes is amended to read:

895.049 Recovery by a person who fails to use protective headgear while operating certain motor vehicles. Notwithstanding s. 895.045, failure by a person who operates or is a passenger on a ^{plain → utility terrain vehicle} motorcycle, as defined in s. 340.01 (32), ^{(1) (ng)} an all-terrain vehicle, as defined in s. 340.01 (2g), or a snowmobile, as defined in s. 340.01 (58a), on or off a highway, to use protective headgear shall not reduce recovery for injuries or damages by the person or the person's legal representative in any civil action. This section does not apply to any person required to wear protective headgear under s. 23.33 (3g), ⁽⁷⁾ 23.335 (a), or 347.485 (1).

SECTION 28. 901.053 of the statutes is amended to read:

901.053 Admissibility of evidence relating to use of protective**headgear while operating certain motor vehicles.** Evidence of use or nonuse

of protective headgear by a person, other than a person required to wear protective

headgear under s. 23.33 (3g), ⁽¹⁷⁾ ~~23.335 (4) (a)~~ or 347.485 (1), who operates or is apassenger on a ^{plain →} utility terrain vehicle, as defined in s. 23.33 (1) (ng), a

defined in s. 340.01 (2g), or a snowmobile, as defined in s. 340.01 (58a), on or off a

highway, is not admissible in any civil action for personal injury or property damage.

This section does not apply to the introduction of such evidence in a civil action

against the manufacturer or producer of the protective headgear arising out of any

alleged deficiency or defect in the design or manufacture of the protective headgear

or, with respect to such use of protective headgear, in a civil action on the sole issue

of whether the protective headgear contributed to the personal injury or property

damage incurred by another person.

SECTION 29. 938.17 (1) (intro.) of the statutes is amended to read:938.17 (1) TRAFFIC, BOATING, SNOWMOBILE ^{AND} ~~AND~~ ALL-TERRAIN VEHICLE ^{AND} ~~AND~~OFF-HIGHWAY MOTORCYCLE VIOLATIONS. (intro.) Except for violations of ss. 342.06 (2)

and 344.48 (1), and violations of ss. 30.67 (1) and 346.67 (1) when death or injury

occurs, courts of criminal and civil jurisdiction have exclusive jurisdiction in

proceedings against juveniles 16 years of age or older for violations of s. 23.33, of s.23.335, of ss. 30.50 to 30.80, of chs. 341 to 351, and of traffic regulations, as defined

in s. 345.20, and nonmoving traffic violations, as defined in s. 345.28 (1). A juvenile

charged with a traffic, boating, snowmobile, ~~or~~ ^{of} utility terrain vehicle, or off-highwaymotorcycle offense in a court of criminal or civil jurisdiction shall be treated as an

adult before the trial of the proceeding except that the juvenile may be held in secure

custody only in a juvenile detention facility. A juvenile convicted of a traffic, boating,

~~or~~ utility terrain vehicle ✓

1 snowmobile, ~~or~~ all-terrain vehicle, ~~or off-highway motorcycle~~ offense in a court of
2 criminal or civil jurisdiction shall be treated as an adult for sentencing purposes
3 except as follows:

4 **SECTION 30.** 940.09 (1m) (b) of the statutes is amended to read:

5 940.09 (1m) (b) If a person is charged in an information with any of the
6 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
7 971.12. If the person is found guilty of more than one of the crimes so charged for
8 acts arising out of the same incident or occurrence, there shall be a single conviction
9 for purposes of sentencing and for purposes of counting convictions under s. 23.33
10 (13) (b) 2. and 3., under s. 23.335 (2) (b) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under
11 s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm),
12 (c), (cm), (d), and (e) each require proof of a fact for conviction which the others do not
13 require, and sub. (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for
14 conviction which the others do not require.

15 **SECTION 31.** 940.09 (3) of the statutes is amended to read:

16 940.09 (3) An officer who makes an arrest for a violation of this section shall
17 make a report as required under s. 23.33 (4t), 23.335 (6) (c), 30.686, 346.635 or
18 350.106.

19 **SECTION 32.** 940.25 (1m) (b) of the statutes is amended to read:

20 940.25 (1m) (b) If a person is charged in an information with any of the
21 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
22 971.12. If the person is found guilty of more than one of the crimes so charged for
23 acts arising out of the same incident or occurrence, there shall be a single conviction
24 for purposes of sentencing and for purposes of counting convictions under s. 23.33
25 (13) (b) 2. and 3., under s. 23.335 (2) (b) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under

1 ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am),
2 (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction which the
3 others do not require. (11)(g) ✓

4 **SECTION 33.** 940.25 (3) of the statutes is amended to read:

5 940.25 (3) An officer who makes an arrest for a violation of this section shall
6 make a report as required under s. 23.33 (4t), ~~23.335 (6)(c)~~, 30.686, 346.635 or
7 350.106.

8 **SECTION 34.** 973.09 (2) (a) 1. d. of the statutes is amended to read: (11)

9 973.09 (2) (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), ~~23.335 (4)(a)~~
10 30.681, 30.684 (5), 350.101, 350.104 (5), or 350.17 or a misdemeanor under s. 346.63
11 to which s. 973.09 (1) (d) applies. (b) ✓

12 (END)

(b), or (i) ✓

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SECTION 1. 20.370 (3) (at) of the statutes is amended to read:

20.370 (3) (at) *Education and safety programs*. For programs or courses of instruction under ss. ~~23.33 (5) (d)~~ 23.336 (2), 29.591, 30.74 (1) (a) and 350.055 (1). All moneys remitted to the department under ss. ~~23.33 (5) (d)~~ 23.336 (2), 29.563 (12) (c) 2., 29.591 (3), 30.74 (1) (b), and 350.055 (1) shall be credited to this appropriation.

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 175, 276, 365, 373; 2011 a. 32, 103, 118, 148, 151, 169, 208; 2011 a. 257 s. 56; s. 13.92 (1) (bm) 2.

SECTION 2. 20.370 (5) (cx) of the statutes is amended to read:

20.370 (5) (cx) *Recreation aids — all-terrain off-highway vehicle safety program*. The amounts in the schedule for grants to organizations to assist with the all-terrain vehicle safety program under s. ~~23.33 (5m) (d)~~ under the recreational vehicle safety grant program under s. 23.336 (3).

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 175, 276, 365, 373; 2011 a. 32, 103, 118, 148, 151, 169, 208; 2011 a. 257 s. 56; s. 13.92 (1) (bm) 2.

SECTION 3. 23.115 (title) of the statutes is amended to read:

23.115 (title) Designation of and signage for certain trails, etc and routes.

History: 1977 c. 418; 1983 a. 418 s. 3; Stats. 1983 s. 23.115; 1995 a. 294.

SECTION 4. 23.115 (1) of the statutes is amended to read:

23.115 (1) The department shall designate trails, campgrounds, picnic areas and other special use areas for property under its control. These trails,

campgrounds, picnic areas and other special use areas shall be designated on maps available at the department's district office, on a sign outside the office on the property or on signs placed by the trails, campgrounds, picnic areas or other use areas at the option of the department.

History: 1977 c. 418; 1983 a. 418 s. 3; Stats. 1983 s. 23.115; 1995 a. 294.

SECTION 5. 23.115 (2) of the statutes is renumbered 23.115 (2) (a).

SECTION 6. 23.115 (2) (b) of the statutes is created to read:

23.115 (2) (b) Paragraph (a) does not apply to off-highway vehicle trails, as defined in s. 23.336 (1) (i), that are on land under the control of the department but that are maintained by off-highway associations, as defined in s. 23.336 (1) (d).

SECTION 7. 23.115 (3) of the statutes is renumbered 23.115 (2) (c) and amended to read:

~~Subsection (2)~~
23.115 (2) (c) Paragraph (a) does not apply to snowmobile trails, as defined in s. 350.01 (17), that are on land under the control of the department but that are maintained by snowmobile clubs or other nonprofit organizations associations, as defined in s. 23.336 (1) (k).

History: 1977 c. 418; 1983 a. 418 s. 3; Stats. 1983 s. 23.115; 1995 a. 294.

Insert 2-12

SECTION 8. 23.33 (4z) (title) of the statutes is renumbered 23.336 (4) (title) and amended to read:

23.336 (4) (title) PUBLIC EDUCATION PROGRAM REGARDING INTOXICATED OPERATION.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258. **SECTION 9.** 23.33 (4z) (a) (intro.) of the statutes is renumbered 23.336 (4) (a) (intro.).

SECTION 10. 23.33 (4z) (a) 1. of the statutes is renumbered 23.336 (4) (a) 1.

SECTION 11. 23.33 (4z) (a) 2. of the statutes is renumbered 23.336 (4) (a) 2. and amended to read:

23.336 (4) (a) 2. Provide for the development of signs briefly explaining the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law and the intoxicated operation of an off-highway motorcycle law.

SECTION 12. 23.33 (4z) (b) of the statutes is renumbered 23.336 (4) (b) and amended to read:

23.336 (4) (b) The department shall develop and issue an educational pamphlet on the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law to be distributed, ~~beginning in 1989~~, to persons issued all-terrain vehicle or utility terrain vehicle registration certificates under subs. s. 23.33 (2) and or (2g) or off-highway motorcycle registration certificates under ~~sub (3).~~ ^{23.335} ✓

SECTION 13. 23.33 (5) (title) of the statutes is amended to read:

23.33 (5) (title) AGE RESTRICTIONS; ~~SAFETY CERTIFICATION PROGRAM.~~

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 263, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

SECTION 14. 23.33 (5) (d) of the statutes is renumbered 23.336 (2) and amended to read:

23.336 (2) SAFETY CERTIFICATION PROGRAM ESTABLISHED. The department shall establish or supervise the establishment of a program of instruction on ~~all-terrain vehicle and utility terrain vehicle laws, including the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law, regulations, safety relating to the~~ safe operation of off-highway vehicles and other related subjects. The department shall establish by rule an instruction fee for this program. The department shall issue certificates to persons successfully completing the program. An instructor conducting the program of instruction under this ~~paragraph~~ ^{subsection} shall collect the fee from each person who receives instruction. The department may determine the portion of this fee, which may not exceed 50%, that the instructor may retain to

defray expenses incurred by the instructor in conducting the program. The instructor shall remit the remainder of the fee or, if nothing is retained, the entire fee to the department. The department shall issue a duplicate certificate of accomplishment to a person who is entitled to a duplicate certificate of accomplishment and who pays a fee of \$2.75.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

SECTION 15. 23.33 (5m) (title) of the statutes is renumbered 23.336 (3) (title)

and amended to read:

23.336 (3) (title) SAFETY GRANT PROGRAM.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

SECTION 16. 23.33 (5m) (a) of the statutes is renumbered 23.336 (3) (a).

SECTION 17. 23.33 (5m) (b) (intro.) of the statutes is renumbered 23.336 (3) (b)

(intro.).

SECTION 18. 23.33 (5m) (b) 1. of the statutes is renumbered 23.336 (3) (b) 1.

SECTION 19. 23.33 (5m) (b) 2. of the statutes is renumbered 23.336 (3) (b) 2. and

amended to read:

23.336 (3) (b) 2. The organization promotes the operation of ~~all-terrain one or~~ ✓

more types of off-highway vehicles in a manner that is safe and responsible and that

does not harm the environment.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

SECTION 20. 23.33 (5m) (b) 3. of the statutes is renumbered 23.336 (3) (b) 3. and

amended to read:

23.336 (3) (b) 3. The organization promotes the operation of ~~all-terrain one or~~ ✓

more types of off-highway vehicles in a manner that does not conflict with the laws,

1 rules, and departmental policies that ~~relate~~ are applicable to the operation of
2 all-terrain those types of off-highway vehicles.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

3 **SECTION 21.** 23.33 (5m) (b) 4. of the statutes is renumbered 23.336 (3) (b) 4. and
4 amended to read:

5 23.336 (3) (b) 4. The interest of the organization is limited to the recreational
6 operation of all-terrain off-highway vehicles on all-terrain vehicle off-highway
7 routes, off-highway trails and other areas that are off the highways.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

8 **SECTION 22.** 23.33 (5m) (b) 5. of the statutes is renumbered 23.336 (3) (b) 5. and
9 amended to read:

10 23.336 (3) (b) 5. The organization has a board of directors that has a majority
11 of members who are representatives of all-terrain vehicle clubs off-highway
12 associations.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

13 **SECTION 23.** 23.33 (5m) (b) 6. of the statutes is renumbered 23.336 (3) (b) 6. and
14 amended to read:

15 23.336 (3) (b) 6. The organization provides support to all-terrain vehicle clubs
16 off-highway associations.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

17 **SECTION 24.** 23.33 (5m) (c) (intro.) of the statutes is renumbered 23.336 (3) (c)
18 (intro.) and amended to read:

19 23.336 (3) (c) (intro.) An organization receiving a grant under this subsection
20 shall use the grant moneys to promote and provide support to the program safety

no score

1 certification program established under sub. (5) (2) by conducting activities that
2 include all any of the following:

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

3 **SECTION 25.** 23.33 (5m) (c) 1. of the statutes is renumbered 23.336 (3) (c) 1. and
4 amended to read:

5 23.336 (3) (c) 1. Collecting data on the recreational operation of all-terrain
6 vehicles off-highway vehicles off the highways. *no score*

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

7 **SECTION 26.** 23.33 (5m) (c) 2. of the statutes is renumbered 23.336 (3) (c) 2. and
8 amended to read:

9 23.336 (3) (c) 2. Providing assistance to the department in locating, recruiting,
10 and training instructors for the safety certification program established under sub.
11 (5) (d) (2).

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

12 **SECTION 27.** 23.33 (5m) (c) 3. of the statutes is renumbered 23.336 (3) (c) 3. and
13 amended to read:

14 23.336 (3) (c) 3. Attempting to increase participation by current and future
15 all-terrain vehicle operators and owners in the safety certification program
16 established under sub. (5) (d) (2).

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

17 **SECTION 28.** 23.33 (5m) (c) 4. of the statutes is renumbered 23.336 (3) (c) 4. and
18 amended to read:

19 23.336 (3) (c) 4. Assisting the department of natural resources and the
20 department of tourism in creating an outreach program to inform local communities
21 of appropriate all-terrain vehicle what is appropriate use in their communities of the

1 types of off-highway vehicles ^{which} ~~for the organization was formed~~ and of the economic
2 benefits that may be gained from promoting tourism to attract ~~all-terrain vehicle~~
3 recreational operators of these vehicles.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

4 **SECTION 29.** 23.33 (5m) (c) 5. of the statutes is renumbered 23.336 (3) (c) 5. and
5 amended to read:

6 23.336 (3) (c) 5. Attempting to improve and maintain its the organization's
7 relationship with the department of natural resources, the department of tourism,
8 off-highway associations, all-terrain off-highway vehicle dealers, all-terrain
9 off-highway vehicle manufacturers, ~~snowmobile clubs, as defined in s. 350.138 (1)~~
10 ~~(e), snowmobile alliances, as defined in s. 350.138 (1) (d), and other organizations~~
11 ~~that promote the recreational operation of snowmobiles~~ and snowmobile
12 associations.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

13 **SECTION 30.** 23.33 (5m) (c) 6. of the statutes is renumbered 23.336 (3) (c) 6. and
14 amended to read:

15 23.336 (3) (c) 6. Recruiting, assisting in the training of, and providing support
16 to a corps of volunteers that will assist in providing safety instruction ~~on the safe and~~
17 ~~responsible operation of all-terrain vehicles~~ that is given in the field to ~~all-terrain~~
18 vehicle operators of off-highway vehicles.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

19 **SECTION 31.** 23.33 (5m) (c) 7. of the statutes is renumbered 23.336 (3) (c) 7. and
20 amended to read:

21 23.336 (3) (c) 7. Publishing Assisting the department in publishing a manual
22 ~~in cooperation with the department that shall~~ that will be used to train volunteers

1 in monitoring the recreational operation of ~~all-terrain off-highway~~ vehicles for
2 safety issues and other issues that relate to the responsible operation of ~~all-terrain~~
3 ~~off-highway~~ vehicles.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

4 **SECTION 32.** 23.33 (5m) (d) of the statutes is ~~renumbered~~ 23.336 (3) (d).

5 **SECTION 33.** 23.33 (8) (e) of the statutes is ~~renumbered~~ 23.336 (5) (a) and
6 amended to read:

7 23.336 (5) (a) ~~Signs.~~ The department, in cooperation with the department of
8 transportation, shall establish uniform ~~all-terrain vehicle route and trail~~ signs and
9 standards ~~and uniform signs and standards~~ for the operation of ~~utility terrain~~
10 ~~off-highway~~ vehicles on ~~all-terrain vehicle~~ off-highway routes and off-highway
11 trails. The standards may not require that any additional signs be placed on
12 all-terrain vehicle routes concerning the operation of all-terrain vehicles or utility
13 terrain vehicles with snow removal devices attached.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

14 **SECTION 34.** 23.33 (8) (f) (title) of the statutes is ~~repealed~~.

15 **SECTION 35.** 23.33 (8) (f) 1. of the statutes is ~~renumbered~~ 23.336 (5) (b) and
16 amended to read:

17 23.336 (5) (b) No person may intentionally remove, damage, deface, move,
18 obstruct, or interfere with the effective operation of any ~~uniform all-terrain vehicle~~
19 ~~route or trail sign or standard or any uniform sign or standard for relating to the~~
20 operation of ~~a utility terrain~~ an off-highway vehicle on an ~~all-terrain~~ off-highway
21 vehicle route or an off-highway vehicle trail if the sign or standard is legally placed
22 by the state, any municipality or any authorized individual.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

SECTION 36. 23.33 (8) (f) 2. of the statutes is renumbered 23.336 (5) (c) and amended to read:

23.336 (5) (c) No person may possess any ~~uniform all-terrain vehicle route or trail sign or standard, or any~~ uniform sign or standard ^{for relating to the operation} of ~~a utility terrain~~ an off-highway vehicle on an ~~all-terrain off-highway vehicle~~ route or an off-highway vehicle trail, of the type established by the department for the purpose of warning, instruction or information of instructing, or informing the public, unless he or she obtained the uniform sign or standard in a lawful manner. Possession of ~~a uniform all-terrain vehicle route or trail sign or standard or uniform~~ such a sign or standard for the operation of a utility terrain vehicle on an all-terrain vehicle route or trail creates a rebuttable presumption of illegal possession.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

SECTION 37. 23.33 (9) (c) of the statutes is amended to read:

23.33 (9) (c) *Signs.* In addition to the projects listed in par. (b), the department may provide aid under this subsection to a town, village, city or county for up to 100% of the cost of placing signs that relate to the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law and that are developed under sub. (4z) s. 23.336 (4) (a) 2.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

SECTION 38. 23.33 (13) (a) of the statutes is amended to read:

23.33 (13) (a) *Generally.* Except as provided in pars. ~~(am)~~ ^(ar) to (e), any person who violates this section shall forfeit not more than \$250.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

SECTION 39. 23.33 (13) (am) of the statutes is renumbered 23.336 (5) (d) 2. and

amended to read:

23.336 (5) (d) 2. ~~Penalty related to interference with signs and standards.~~
Except as provided in par. (eg), a subd. 3., any person who violates sub. (8) (f) par. (b)
or (c) and who, within the last 2 years prior to the arrest for the current violation, was
2 or more times previously convicted for violating a provision of this chapter par. (b)
or (c) shall forfeit not more than \$500.

SECTION 40. 23.33 (13) (cg) of the statutes is renumbered 23.336 (5) (d) 3. and
amended to read:

23.336 (5) (d) 3. ~~Penalties related to causing death or injury; interference with
signs and standards.~~ Any person who violates sub. (8) (f) 1. par. (b) § guilty of a
Class H felony if the violation causes the death or injury, as defined in s. 30.67 (3) (b),
of another person.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436,
448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009
a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

SECTION 41. 23.33 (13) (f) of the statutes is renumbered 23.336 (6) and amended
to read:

23.336 (6) ~~Restoration or replacement of signs and standards.~~ In addition to
any other penalty imposed for a violation of par. (b), the court may order the
defendant to restore or replace any ~~uniform all-terrain vehicle route or trail sign or
standard, or any uniform sign or standard for the operation of a utility terrain vehicle
on an all-terrain vehicle route or trail,~~ that the defendant removed, damaged,
defaced, moved, or obstructed.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436,
448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009
a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

Insert 2-14

(a) "Agricultural purpose" has the meaning given in s. 23.33 (1) (ag).

Insert 2-15

(c) "Alcohol concentration" has the meaning given in s. 340.01 (1v).

Insert 2-19

(g) "Electric personal assistive mobility device" has the meaning given in s. 340

.01 (15pm)

(h) "Immediate family" means persons who are related as spouses, as siblings,

or as parent and child

Insert 3-3

(k) "Junked" means dismantled for parts or scrapped.

(L) "Land under the management and control of the person's immediate family"

means land owned or leased by the person or a member of the person's immediate family over which the owner or lessee has management and control. This term excludes land owned or leased by an organization of which the person or a member of the person's immediate family is a member.

(m) "Law enforcement officer" means an officer of the state traffic patrol under s. 110.07 (1), inspector under s. 110.07 (3), a conservation warden appointed by the department under s. 23.10, a county sheriff or a municipal peace officer.

Insert 3-8

(o) "Local governmental unit" means a city, village, town, or county.

Insert 3-11

(q) "Off-highway motorcycle corridor" means an off-highway motorcycle trail or other established off-highway motorcycle corridor that is open to the public but does not include an off-highway motorcycle route.

(r) "Off-highway motorcycle dealer" means a person who is engaged in this state in the sale of off-highway motorcycles for a profit at retail.

Insert 4-6

(y) "Purpose of authorized analysis" means for the purpose of determining or obtaining evidence of the presence, quantity, or concentration of any intoxicant in a person's blood, breath, or urine.

(z) "Refusal law" means sub. (11) (h) or a local ordinance in conformity therewith.

(zb) "Small off-highway motorcycle" means an off-highway motorcycle that has either an engine certified by the manufacturer at not more than 100 cubic centimeters or an equivalent power unit.

(zc) "Test facility" means a test facility or agency prepared to administer tests under s. 343.305 (2).

Insert 5-2

(b) *Exemptions.* An off-highway motorcycle is exempt from the registration requirement under par. (a) if any of the following applies:

1. The off-highway motorcycle is owned by this state or by a local governmental unit or other political subdivision of this state, is used for enforcement or emergency purposes, and has displayed on its exterior a legible decal that is clearly visible.

2. Owned by the United States, by another state, or by a local governmental unit or other political subdivision of another state, and the name of the owner is displayed in a clearly visible manner on its exterior.

3. Covered by a valid registration of a federally recognized American Indian tribe or band, and all of the following apply:

a. The registration program of the tribe or band is covered by an agreement under s. 23.35.

b. The off-highway motorcycle displays the registration decal required by the tribe or band.

3x's
The off-highway motorcycle is

- 1
- 2
- 3
- 4
- 5
4. Operated exclusively in racing on a raceway facility.
5. Present in this state, for a period not to exceed 15 days, and is used exclusively as part of an advertisement being made for the manufacturer of the off-highway motorcycle.
6. Specified as exempt from registration by department rule.

(3) REGISTRATION; APPLICATION PROCESS (a) *Public or private use.* Any

off-highway motorcycle may be registered for public use. Only the department may register off-highway motorcycles for off-highway operation. Only an off-highway motorcycle that will be operated exclusively for agricultural purposes or will be operated exclusively by the owner of the motorcycle or a member of his or her immediate family on land owned or leased by the owner or a member of his or her immediate family may be registered for private use.

(b) *Sales by dealers.* If the seller of an off-highway motorcycle is an off-highway motorcycle dealer, the dealer shall require each buyer to whom he sells a motorcycle to complete an application for registration for public or private use and collect the applicable fee required under ^{sub (d)} par. (4) at the time of the sale. The department shall provide application and registration receipt forms to off-highway motorcycle dealers. Each off-highway motorcycle dealer shall provide the buyer a registration receipt showing that the application and accompanying fees have been obtained by the off-highway motorcycle dealer. The off-highway motorcycle dealer shall mail the application and fee to the department no later than 7 days after the date of sale.

(c) *Other sales.* 1. If an off-highway motorcycle is sold or otherwise transferred by a person other than an off-highway motorcycle dealer and is not registered with the department,

****NOTE: More language is needed here to address this scenario.

1 (d) *Action by department.* Upon receipt of an application for registration on a
2 form provided by the department, the applicable fees under sub. (4) (d), and the
3 payment of any sales or use taxes that may be due, the department shall issue the
4 a registration certificate to the applicant.

5 (e) *Transfers of registered motorcycles.* Upon transfer of ownership of an
6 off-highway motorcycle which is registered for public or private use, the seller shall
7 delivered the certificate to the transferee at the time of the transfer. The transferee
8 shall complete an application for transfer on a form provided by the department and
9 shall mail or deliver the form to the department within 10 days after the date of the
10 transfer.

11 (4) REGISTRATION; CERTIFICATES AND DECALS. (a) *Period of validity; expiration.*

12 1. A registration certificate issued under sub. (3) for public use is valid for two years.
13 A registration certificate issued under sub. (3) for private use is valid until the
14 ownership of the off-highway motorcycle is transferred.

15 2. For renewals of registration certificates for public use, the department shall
16 notify each owner of the upcoming date of expiration at least two weeks before that date.

****NOTE: I thought a time frame was necessary for this provision.

17 (b) *Content of certificate.* The certificate shall contain the registration number,
18 the name and address of the owner, and any other information that the department
19 determines is necessary.

20 (c) *Decal required.* 1. Each registration certificate issued under sub. (3) shall
21 be accompanied by a registration decal. No person may operate an off-highway
22 motorcycle for which a registration decal without having the decal so affixed except
23 as provided in subd. 4.

2. The decal shall contain a reference to the state and to the department, the vehicle identification number, and the expiration date of the registration, if the off-highway motorcycle is being registered for public use.

3. The person required to register an off-highway motorcycle shall affix the registration decal with its own adhesive in a position on the exterior of the motorcycle where it is clearly visible and shall maintain the decal so that it is in legible condition.

4. A person may operate an off-highway motorcycle without having a registration decal affixed if the owner has been issued a validated registration receipt that shows that an application and the required fees for a registration certificate have been submitted to the department, and the person operating the off-highway motorcycle has the receipt in his or her possession. The person shall exhibit the receipt, upon demand, to any law enforcement officer.

(d) *Fees for certificates and decals.* The fee for the issuance or renewal of a registration certificate for public use and accompanying decals is \$30.

2. The fee for the issuance or renewal of a registration certificate for private use and accompanying decals is \$15.

3. The fee for the issuance of a decal required under sub. (2) (b) 1. to a local governmental unit or other political subdivision is \$5. There is no fee for the issuance of the decal to the state.

4. The fee for transferring a certificate issued under sub. (3) (e) is \$5.

(e) *Duplicate certificates and decals.* 1. If a registration certificate or decal that was issued under par. (a) or (c) decal is lost or destroyed, the holder of the certificate or decal may apply for a duplicate on a form provided by the department. Upon

receipt of the application and the fee required under subd. 2., the department shall issue a duplicate certificate or decal to the applicant.

2. The fee for the issuance of a duplicate certificate for public or private use is \$5, and the fee for a duplicate decal is \$5.

(f) *Junked motorcycles.* If an off-highway motorcycle is junked, the owner shall return the certificate of registration to the department marked "junked".

(5) REGISTRATION OF OFF-HIGHWAY MOTORCYCLE DEALERS. (a) A person who is an off-highway person who is an off-highway motorcycle dealer shall register with the department and obtain from the department a commercial off-highway motorcycle certificate. Upon receipt of the required fee under par. (e) and an application form provided by the department, the department shall issue the applicant a commercial registration certificate and 3 accompanying decals.

(b) A commercial registration certificate is valid for two years.

(c) A person who is required to obtain an off-highway motorcycle certificate under par. (a) shall attach in a clearly visible place a plate or sign that is removable and temporarily but firmly mounted to any off-highway motorcycle that the person offers for sale or otherwise allows to be used whenever the off-highway motorcycle is being operated. A registration decal issued by the department shall be affixed to the plate or sign.

(d) If a registration certificate or decal that was issued under par. (a) decal is lost or destroyed, the holder of the certificate or decal may apply for a duplicate on a form provided by the department. Upon receipt of the application and the required fee under par. (e), the department shall issue a duplicate certificate or decal to the applicant.

1 (e) The fee for the issuance or renewal of a commercial off-highway motorcycle
2 certificate with ³three accompanying decals is \$90. The fee for additional commercial
3 registration decals is \$30 for each decal. The fee for the issuance of a duplicate
4 commercial off-highway motorcycle certificate is \$5. The fee for each duplicate
5 decal is \$2.

****NOTE: I rearranged the fee structure above to give the dealer the option to
option to replace the number of decals that were lost or destroyed instead of having to pay
for 3 decals.

6 (f) An off-highway motorcycle dealer may not accept a limited use off-highway
7 motorcycle in trade unless the off-highway motorcycle is currently registered by the
8 department or is exempt from being registered by the department under sub. (2) (b).

9 (g) A commercial off-highway motorcycle certificate may not be transferred.

10 (6) NONRESIDENT TRAIL PASSES. (a) Except as provided in par. (b), no person may
11 operate an off-highway motorcycle on an off-highway motorcycle trail or an
12 off-highway motorcycle route in this state unless a nonresident trail pass issued by
13 the department under this subsection is permanently affixed on the exterior of the
14 motorcycle exterior of the motorcycle where it is clearly visible.

15 (b) An off-highway motorcycle that is registered under sub. (3) or or that is
16 exempt from registration under sub. (2) (b) 1., 2., 4., or 5. is exempt from having a
17 nonresident trail pass. The department may promulgate a rule to provide additional
18 exemptions from the requirement of being issued a nonresident trail pass or from
19 having to pay a fee for the pass. The department may promulgate a rule to exempt
20 off-highway motorcycles that are exempt from registration under sub. (2) (b) 6. from
21 having nonresident trail passes affixed as required under par. (a) or may promulgate
22 a rule to exempt owners of such vehicles from having to pay any applicable
23 nonresident trail pass fee.

LPS:
check
specify

no charge

(c) There is no fee for a nonresident trail pass issued for an off-highway motorcycle that is registered under s. 23.35. The department or Indian tribe or band shall issue a nonresident trail pass for ^{an} such off-highway motorcycle when it issues the registration certificate for the motorcycle. The department shall provide Indian tribes or bands that register off-highway motorcycle^s under s. 23.35 with a supply of trail passes.

(d) The fee for an annual nonresident trail pass is \$35. The fee for a 5-day nonresident trail pass is \$20. Only the department may issue trail passes. Annual trail passes expire on March 31 of each year.

***NOTE: Do you want to authorize issuing agents for ^{these} ~~this~~ passes? If so, do you want part of the total fee to include an issuing fee? See s. 23.33 (2j) (c) 2. and (f).

***NOTE: Do you want any restrictions on leasing OHMs that will be used off-highway? See s. 23.33 (2m).

Insert 5-4

2. At a rate of speed that is unreasonable under the circumstances.

Insert 5-15

7. At a speed exceeding 10 miles per hour, if the off-highway motorcycle is within 100 feet of a fishing shanty or within 100 feet of a person who is not in or on an all-terrain vehicle, ^a utility terrain vehicle, a snowmobile, or a motorcycle.

Insert 5-18

(b) ~~(c) Exception for races and derbies.~~ The speed restriction under par. (a) 7. does not apply to ⁱⁿ a sanctioned race or derby if the sponsor of the sanctioned race or derby marks the race or derby route or track to warn spectators from entering the route or track.

Insert 10-11

1

2. Operation is necessary ^{to} cross a bridge, culvert, or railroad right-of-way. The

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crossing of a bridge, culvert, or railroad right-of-way is not authorized if the

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roadway is officially closed to off-highway motorcycle traffic. The crossing is

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authorized only if the crossing is done in the most direct manner practicable, if the

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crossing is made at a place where no obstruction prevents a quick and safe crossing,

6

and if the operator stops the limited use off-highway motorcycle prior to entering the

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crossing and yields the right-of-way to any other vehicles, pedestrians, or electric

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personal assistive mobility devices that are using the roadway.

9

3. Operation is on a roadway which is seasonally not maintained for motor

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vehicle traffic. Such operation is authorized only during the seasons when no

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maintenance occurs and only if the roadway is not officially closed to off-highway

12

motorcycle traffic.

13

4. Operation is on a roadway that is an off-highway motorcycle route. Such

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operation is authorized only for the extreme right side of the roadway except that

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left turns may be made from any part of the roadway which is safe given prevailing

16

conditions.

17

5. Operation is exclusively for agricultural purposes and the limited use

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off-highway motorcycle is registered for private use under sub. (3). Such operation

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is authorized only for the extreme right side of the roadway except that left turns may

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be made from any part of the highway which is safe given prevailing conditions.

21

6. The operator of the limited use off-highway motorcycle is a person who

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holds a Class A permit or a Class B permit under s. 29.193 (2) and who is traveling

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for the purposes of hunting or is otherwise engaging in an activity authorized by the

24

permit.

(I)

freeways.

1

(b) No person may operate a limited use off-highway motorcycle on any part

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of any freeway which is a part of the federal system of interstate and defense

3

highways under any circumstances. No person may operate a limited use

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off-highway motorcycle on any part of any other freeway unless the department of

5

transportation authorizes the use of limited use off-highway motorcycles on that

6

freeway.

2

****NOTE: This draft does not contain a provision that is similar to the one found in s. 23.33 (4)(c), which deals with operating OHMs during derbies, races, and special events. Please let me know if you want this provision included.

****NOTE: I did not include a provision that is similar to the one found in s. 23.33 (4)(d) 7., which deals with operation on roadways that are trails. By definition, a roadway is never a trail unless it is seasonally not maintained, and that scenario is covered under par. (a) 3. above.

7

(10) OPERATION ADJACENT TO ROADWAY. (a) *Location of operation.* 1. A person

8

may operate an off-highway motorcycle adjacent to a roadway of a town highway

9

that is designated as an off-highway motorcycle route or an off-highway motorcycle

10

trail without any restriction on how close the off-highway motorcycle is to the

11

roadway.

12

2. A person may operate an off-highway motorcycle adjacent to a roadway of

13

a U.S. numbered highway, a state highway, or a county highway that is designated

14

an off-highway motorcycle route or an off-highway motorcycle trail provided that

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the operation occurs at a distance of 10 or more feet from the roadway. Travel on the

16

median of a divided highway is prohibited except to cross.

17

(b) *Direction of operation.* 1. Except as provided in subd. 2., a person may

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operate an off-highway motorcycle on an off-highway motorcycle route or

19

off-highway motorcycle trail adjacent to a road only in the same direction as motor

20

vehicle traffic in the nearest lane.

2. A person may operate the off-highway motorcycle in either direction if any of the following apply: ^{ies}

- a. The off-highway motorcycle is being operated during hours of daylight.
- b. The off-highway motorcycle is being operating ^{eed} during hours of darkness and the off-highway motorcycle route or off-highway motorcycle trail is located at least 40 feet from the roadway or is separated from the roadway by a head lamp barrier.

(c) *Other limitation.* A person ^{operating} ~~operating~~ an off-highway motorcycle on an off-highway motorcycle route adjacent to a roadway shall comply with the speed limits of the adjacent roadway and with rules promulgated by the department and approved by the department of administration.

****NOTE: I found s. 23.33 (4) (e) under current law to be quite confusing. Also note that it was amended in 2011 Wisconsin Act 208. I redrafted this to make it clearer. Please review carefully with current law, as amended by Act 208, and let me know if you want any changes.

(11) INTOXICATED OPERATION. (a) *Operation.* 1. No person may operate an off-highway motorcycle while under the influence of an intoxicant to a degree which renders him or her incapable of safe operation of the off-highway motorcycle.

2. No person may engage in the operation of an off-highway motorcycle while the person has an alcohol concentration of 0.08 or more.

3. If a person has not attained the age of 21, the person may not engage in the operation of an off-highway motorcycle while he or she has an alcohol concentration of more than 0.0 but not more than 0.08.

4. A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of subd. 1. or 2. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of subd. 1. or 2., the offenses shall be joined. If the person is found guilty of any combination of subd. 1. or 2. for acts arising out of the same incident or

1 occurrence, there shall be a single conviction for purposes of sentencing and for
2 purposes of counting convictions under sub. Subdivisions 1. and 2. each require
3 proof of a fact for conviction which the others do not require.

X ****NOTE: Editing note. This cross-reference missing above will be provided in a
subsequent version.

4 (b) *Operation causing injury.* 1. No person while under the influence of an
5 intoxicant to a degree which renders him or her incapable of safe operation of an
6 off-highway ^{motorcycle} may cause injury to another person by the operation of an off-highway
7 motorcycle.

8 2. No person who has an alcohol concentration of 0.08 or more may cause injury
9 to another person by the operation of an off-highway motorcycle.

10 3. A person may be charged with and a prosecutor may proceed upon a
11 complaint based upon a violation of any combination of subd. 1. or 2. for acts arising
12 out of the same incident or occurrence. If the person is charged with violating any
13 combination of subd. 1. or 2. in the complaint, the crimes shall be joined under s.
14 971.12. If the person is found guilty of any combination of subd. 1. or 2. for acts
15 arising out of the same incident or occurrence, there shall be a single conviction for
16 purposes of sentencing and for purposes of counting convictions under sub.
17 Subdivisions 1. and 2. each require proof of a fact for conviction which the others do
18 not require.

T ****NOTE: Editing note. This cross-reference missing above will be provided in a
subsequent version.

19 4. In an action under this paragraph, the defendant has a defense if he or she
20 proves by a preponderance of the evidence that the injury would have occurred even
21 if he or she had been exercising due care and even if he or she did not have an alcohol
22 concentration of 0.08 or more.

1 (c) *Implied consent.* Any person who engages in the operation of an
2 off-highway motorcycle upon the public highways of this state, or in those areas
3 enumerated in par. (d), is considered to have given consent to provide one or more
4 samples of his or her breath, blood, or urine for the purpose of authorized analysis
5 as required under pars. (f) and (g). Any person who engages in the operation of an
6 off-highway motorcycle within this state is considered to have given consent to
7 submit to one or more chemical tests of his or her breath, blood, or urine for the
8 purpose of authorized analysis as required under pars. (f) and (g).

9 (d) *Applicability of law.* The intoxicated operation of an off-highway
10 motorcycle law applies to all of the following:

11 1. The operation of an off-highway motorcycle on any off-highway motorcycle
12 trail or any off-highway motorcycle route.

13 2. The operation of any off-highway motorcycle on other premises or areas held
14 out to the public for use of off-highway motorcycles whether such premises or areas
15 are publicly or privately owned and whether or not a fee is charged for the use of an
16 off-highway motorcycle.

17 3. The operation of a limited use off-highway motorcycle on a highway as
18 authorized under sub. (9).

19 4. The operation of an off-highway motorcycle adjacent to a highway as
20 authorized under sub. (10).

21 (e) *Preliminary breath screening.* 1. A person shall provide a sample of his or
22 her breath for a preliminary breath screening test if a law enforcement officer has
23 probable cause to believe that the person is violating or has violated the intoxicated
24 operation of an off-highway motorcycle law and if, prior to an arrest, the law
25 enforcement officer requested the person to provide this sample.

1

2 A law enforcement officer may use the results of a preliminary breath
3 screening test for the purpose of deciding whether or not to arrest a person for a
4 violation of the intoxicated operation of an off-highway motorcycle law or for the
5 purpose of deciding whether or not to request a chemical test under par. (f).
6 Following the preliminary breath screening test, chemical tests may be required of
7 the person under par. (f).

8 3. The result of a preliminary breath screening test is not admissible in any
9 action or proceeding except to show probable cause for an arrest, if the arrest is
10 challenged, or to show that a chemical test was properly required of a person under
11 par. (f).

12 4. There is no penalty for a violation of subd. 1. Subsection and the general
13 penalty provision under s. 939.61 do not apply to the violation.

****NOTE: Editing note. This cross-reference missing above will be provided in a
subsequent version.

13

14 (f) *Chemical tests; requirement.* 1. A person shall provide one or more samples
15 of his or her breath, blood, or urine for the purpose of authorized analysis if he or she
16 is arrested for a violation of the intoxicated operation of an off-highway motorcycle
17 law and if he or she is requested to provide the sample by a law enforcement officer.
18 A person shall submit to one or more chemical tests of his or her breath, blood, or
19 urine for the purpose of authorized analysis if he or she is arrested for a violation of
20 the intoxicated operation of an off-highway motorcycle law and if he or she is
21 requested to submit to the test by a law enforcement officer.

22 2. A law enforcement officer requesting a person to provide a sample or to
23 submit to a chemical test under subd. 1. shall inform the person of all of the following
at the time of the request and prior to obtaining the sample or administering the test:

1 a. That he or she is deemed to have consented to tests under par. (c). ✓

2 b. That a refusal to provide a sample or to submit to a chemical test constitutes
3 a violation under par. (h) ✓ and is subject to the same penalties and procedures as a
4 violation of par. (a) 1. ✓

5 c. That in addition to the designated chemical test under par. (g) 2., he or she
6 may have an additional chemical test under par. (g) 4. ✓

7 3. A person who is unconscious or otherwise not capable of withdrawing
8 consent is presumed not to have withdrawn consent under this paragraph, ✓ and if a
9 law enforcement officer has probable cause to believe that the person violated the
10 intoxicated operation of an off-highway motorcycle law, one or more chemical tests
11 may be administered to the person without a request under subd. 1. ✓ and without
12 providing information under subd. 2. ✓

13 (g) *Chemical tests; procedures.* 1. Upon the request of a law enforcement officer,
14 a test facility ✓ shall administer a chemical test of breath, blood, or urine for the
15 purpose of authorized analysis. A test facility shall be prepared to administer 2 out
16 of 3 of these tests for the purpose of authorized analysis. The department ✓ may enter
17 into agreements for the cooperative use of test facilities.

18 2. A test facility shall designate one chemical test of breath, blood, or urine
19 which it is prepared to administer first as the primary test for the purpose of
20 authorized analysis.

21 3. A test facility shall designate another chemical test of breath, blood, or urine,
22 other than the test designated under subd. 2., ✓ which it is prepared to administer as
23 an additional chemical test for the purpose of authorized analysis.

24 4. If a person is arrested for a violation of the intoxicated operation of an
25 off-highway motorcycle law or is the operator of an off-highway motorcycle involved

1 in an accident resulting in great bodily harm to or the death of someone and if the
2 person is requested to provide a sample or to submit to a test under par. (f) 1., the
3 person may request the test facility to administer the additional chemical test
4 specified under subd. 3.. or, at his or her own expense, reasonable opportunity to have
5 any qualified person administer a chemical test of his or her breath, blood or urine
6 for the purpose of authorized analysis.

7 5. If a person is arrested for a violation of the intoxicated operation of an
8 off-highway motorcycle law and if the person is not requested to provide a sample
9 or to submit to a test under par. (f) 1., the person may request the test facility to
10 administer a chemical test of his or her breath or may request, at his or her own
11 expense, a reasonable opportunity to have any qualified person administer a
12 chemical test of his or her breath, blood, or urine for the purpose of authorized
13 analysis. If a test facility is unable to perform a chemical test of breath, the person
14 may request the test facility to administer the chemical test designated under par.
15 (f) 2. or the additional chemical test designated under par. (f) 3.

16 6. A test facility shall comply with a request under this paragraph to
17 administer any chemical test it is able to perform.

18 7. The failure or inability of a person to obtain a chemical test at his or her own
19 expense does not preclude the admission of evidence of the results of a chemical test
20 required and administered under pars. (f) or (g).

21 8. A chemical test of blood or urine conducted for the purpose of authorized
22 analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of
23 the laboratory of hygiene, department of health services, and department of
24 transportation under s. 343.305 (6) apply to a chemical test of blood or urine
25 conducted for the purpose of authorized analysis under pars. (f) and (g). Blood may

1 be withdrawn from a person arrested for a violation of the intoxicated operation of
2 an off-highway motorcycle law only by a physician, registered nurse, medical
3 technologist, physician assistant, or person acting under the direction of a physician,
4 and the person who withdraws the blood, the employer of that person, and any
5 hospital where blood is withdrawn have immunity from civil or criminal liability as
6 provided under s. 895.53.

7 9. A test facility which administers a chemical test of breath, blood, or urine
8 for the purpose of authorized analysis under pars. (f) and (g) shall prepare a written
9 report which shall include the findings of the chemical test, the identification of the
10 law enforcement officer or the person who requested a chemical test, and the
11 identification of the person who provided the sample or submitted to the chemical
12 test. The test facility shall transmit a copy of the report to the law enforcement officer
13 and the person who provided the sample or submitted to the chemical test.

14 (h) *Chemical tests; refusal.* No person may refuse a lawful request to provide
15 one or more samples of his or her breath, blood, or urine or to submit to one or more
16 chemical tests under par. (f). A person shall not be considered to refuse to provide a
17 sample or to submit to a chemical test if it is shown by a preponderance of the
18 evidence that the refusal was due to a physical inability to provide the sample or to
19 submit to the test due to a physical disability or disease unrelated to the use of an
20 intoxicant. Issues in any action concerning violation of par. (f) or this paragraph are
21 limited to the following:

22 (i) *Chemical tests; effect of test results.* The results of a chemical test required
23 or administered under par. (f) or (g) are admissible in any civil or criminal action or
24 proceeding arising out of the acts committed by a person alleged to have violated the
25 intoxicated operation of an off-highway motorcycle law on the issue of whether the

insult
from
p.
28

have refused ← refusal

1 person was under the influence of an intoxicant or the issue of whether the person
2 had alcohol concentrations at or above specified levels. Results of these chemical
3 tests shall be given the effect required under s. 885.235. Paragraphs (f) to (h) do not
4 limit the right of a law enforcement officer to obtain evidence by any other lawful
5 means.

6 1. Whether the law enforcement officer had probable cause to believe the
7 person was violating or had violated the intoxicated operation of an off-highway
8 motorcycle law.

9 2. Whether the person was lawfully placed under arrest for violating the
10 intoxicated operation of an off-highway motorcycle law.

11 3. Whether the law enforcement officer requested the person to provide a
12 sample or to submit to a chemical test and provided the information required under
13 par. (f) 2. or whether the request and information was unnecessary under par. (f) 3.

14 4. Whether the person refused to provide a sample or to submit to a chemical
15 test.

16 (j) *Report of arrest to department.* If a law enforcement officer arrests a person
17 for a violation of the intoxicated operation of an off-highway motorcycle law, the law
18 enforcement officer shall notify the department of the arrest as soon as practicable.

19 (k) *Release of persons arrested.* 1. A person arrested for a violation of the
20 intoxicated operation of the off-highway motorcycle law may not be released until
21 12 hours have elapsed from the time of his or her arrest or unless a chemical test
22 administered under par. (a) 1. or 2. shows that the person has an alcohol
23 concentration of 0.05 or less, except as provided in subd 2.

2. A person arrested for a violation of the intoxicated operation of the off-highway motorcycle law may be released to his or her attorney, spouse, relative, or other responsible adult at any time after arrest.

(12) AGE RESTRICTIONS; SAFETY CERTIFICATE REQUIREMENTS.. (a) *Under 12 years of age.* No person under 12 years of age may operate an off-highway motorcycle on a roadway under any circumstances and may not operate an off-highway motorcycle off a roadway unless one of the following apply: *ies*

1. He or she is operating an off-highway motorcycle for an agricultural purpose and he or she is under the supervision of a person over 18 years of age.

2. He or she is operating a small off-highway motorcycle and he or she is accompanied by a parent or guardian or by a person who is at least 18 years of age who has been designated by the parent or guardian.

****NOTE: Note that the operation of a small OHM is not limited to an OHM trail.
OK?

(b) *Type of supervision.* For purposes of par. (a) 1. *supervision does not required* that the person under 12 years of age be subject to continuous direction or control by the person over 18 years of age.

(c) *At least 12 years of age.* No person *may operate* who is at least 12 years of age and born after January 1, 1998, may operate an off-highway motorcycle on an off-highway motorcycle trail or off-highway motorcycle route unless the person holds a valid certificate issued by the department or by another state or a province of Canada.

(d) *Exemption.* The restrictions under pars. (a) and (c) do not apply to a person who is operating an off-highway motorcycle on land under the management and control of the person's immediate family.

****NOTE: As drafted, a driver's license issued by DOT may not be used in lieu of a safety certificate for the use of an off-highway motorcycle on OHM trails and routes. OK?

X ****NOTE: Any child under the age of 12 is not subject to the safety certificate requirement. OK?

1 **Insert 12-1**

2 (d) Paragraphs (a) to (c) do not apply to the operation of an off-highway
3 motorcycle by the owner of the motorcycle or a member of his or her immediate
4 family on land owned or leased by the owner or a member of his or her immediate
5 family.

6 **Insert 12-17**

7 A designation may include all or a portion of an all-terrain vehicle trail.

8 **Insert 14-17**

9 (d) *Charging of fees.* A local governmental unit that has not received funding
10 under par. (b) in the prior fiscal year may charge a seasonal or daily use fee for an
11 off-highway motorcycle area operated by the local governmental unit.

12 **Insert 17-13**

****NOTE: Editing note. The penalty subsection needs to be totally redone.

13 **SECTION 42.** 23.336 (title) of the statutes is created to read:

14 **23.336 (title) Recreational vehicles; safety programs; signage.**

15 **SECTION 43.** 23.336 (1) of the statutes is created to read:

16 23.336 (1) DEFINITIONS. In this section:

17 (a) "All-terrain vehicle" has the meaning given in s. 340.01 (2g).

18 (b) "All-terrain vehicle route" has the meaning given in s. 23.33 (1) (c).

19 (c) "All-terrain vehicle trail" has the meaning given in s. 23.33 (1) (d).

UPB: check spacing

(d) "Off-highway association" means a club or other association consisting of individuals that promotes the recreational operation of any combination of the following:

1. All-terrain vehicles.

2. Off-highway motorcycles.

any 3. Utility terrain vehicles.

(e) "Off-highway motorcycle" has the meaning given in s. 23.335 (1) (p).

(f) "Off-highway motorcycle route" has the meaning given in s. 23.335 (1) (s).

(g) "Off-highway motorcycle trail" has the meaning given in s. 23.335 (1) (t).

(h) "Off-highway route" means an all-terrain vehicle route or an off-highway motorcycle trail.

(i) "Off-highway trail" means an all-terrain vehicle trail or an off-highway motorcycle trail.

(j) "Off-highway vehicle" means an all-terrain vehicle, an off-highway motorcycle, or a utility terrain vehicle.

(k) "Snowmobile association" means a snowmobile club, as defined in s. 350.138 (1) (e) or a snowmobile alliance, as defined in s. 350.138 (1) (f), or other association consisting of individuals that promotes the recreational operation of snowmobiles.

(L) "Utility terrain vehicle" has the meaning given in s. 23.33 (1) (ng).

SECTION 44. 23.336 (5) (d) 1. of the statutes is created to read:

23.336 (5) (d) 1. Except as provided in subds. 2. and 3. any person who violates par. (a) or (b) shall forfeit not more than \$250.

SECTION 45. 23.35 (1) (intro.) of the statutes is amended to read:

1 23.35 (1) (intro.) The secretary shall enter into a reciprocal agreement with a
2 federally recognized American Indian tribe or band in this state to exempt, from the
3 registration and certification requirements of this state, boats, snowmobiles,
4 all-terrain vehicles, and utility terrain vehicles, and off-highway motorcycles that
5 are owned by tribal or band members and registered under a registration program
6 established by the tribe or band if the tribe or band requests the agreement and if
7 the registration program does all of the following:

History: 1993 a. 405; 2011 a. 208.

8 **SECTION 46.** 23.35 (1) (a) of the statutes is amended to read:

9 23.35 (1) (a) Requires that boats, snowmobiles, all-terrain vehicles, and utility
10 terrain vehicles, and off-highway motorcycles display decals or identification
11 numbers showing valid registration by the tribe or band.

History: 1993 a. 405; 2011 a. 208.

12 **SECTION 47.** 23.35 (1) (b) of the statutes is amended to read:

13 23.35 (1) (b) Employs registration decals and certificates of number that are
14 substantially similar to those employed by the registration or certification programs
15 of this state with regard to size, legibility, information content and placement on the
16 boat, snowmobile, all-terrain vehicle, or utility terrain vehicle, or off-highway
17 motorcycle.

History: 1993 a. 405; 2011 a. 208.

18 **SECTION 48.** 23.35 (1) (e) of the statutes is amended to read:

19 23.35 (1) (e) Provides reciprocal exemptions, from the tribe's or band's
20 registration requirements, for boats, snowmobiles, all-terrain vehicles, and utility
21 terrain vehicles, and off-highway motorcycles that are registered or certified by this
22 state that are substantially as favorable as the exemptions enjoyed by the tribe or
23 the band under the agreement. In this paragraph, "reciprocal exemption" means an
24 exemption under the agreement that exempts from a tribe's or band's registration

1 requirements, for operation within the boundaries of the tribe's or band's
2 reservation, a boat, snowmobile, all-terrain vehicle, ~~or~~ utility terrain vehicle, or
3 off-highway motorcycle that is owned by a person who is not a member of the tribe
4 or band and that is registered or certified by this state to the same extent that the
5 agreement exempts from state registration and certification requirements, for the
6 operation outside the boundaries of the tribe's or band's reservation, a boat,
7 snowmobile, all-terrain vehicle, ~~or~~ utility terrain vehicle, or off-highway motorcycle
8 that is registered by the tribe or band.

History: 1993 a. 405; 2011 a. 208.

9 **SECTION 49.** 23.35 (2) of the statutes is amended to read:

10 23.35 (2) An agreement entered into under sub. (1) may cover a registration
11 program for boats, snowmobiles, all-terrain vehicles, ~~or~~ utility terrain vehicles, or
12 off-highway motorcycles, for any combination thereof.

History: 1993 a. 405; 2011 a. 208.

13 **SECTION 50.** 23.45 (1) (d) of the statutes is ~~amended~~ ^{renumbered} to read:

14 23.45 (1) (d) ^(intro.) "Registration" means any registration of the following:

15 1. Any registration documentation, as defined in s. 23.33 (1) (jn) or s. 350.01
16 (10t), ~~or~~ that is issued by the department or its agents.

17 2. Any certification or registration documentation, as defined in s. 30.50 (3b),
18 that is issued by the department or its agents.

History: 1999 a. 88, 186, 2001 s. 16

19 **SECTION 51.** 23.45 (1) (d) 3. of the statutes is created to read:

20 23.45 (1) (d) 3. Any certificate issued by the department under s. 23.35 (3).

21 **SECTION 52.** 350.12 (3) (a) 1. of the statutes is amended to read:

22 350.12 (3) (a) 1. Except as provided under subs. (2) and (5) (cm), no person may
23 operate and no owner may give permission for the operation of any snowmobile
24 within this state unless the snowmobile is registered for public use or private use

change component

renumbered 23.45 (1) (d) (intro.) and

in sub 24 23 9

1 under this paragraph or s. 350.122 or as an antique under par. (b) and has the
2 registration decals displayed as required under sub. (5) or s. 350.122 or unless the
3 snowmobile has a reflectorized plate attached as required under par. (c) 3. A
4 snowmobile that is not registered as an antique under par. (b) may be registered for
5 public use. A snowmobile that is not registered as an antique under par. (b) and that
6 is used ~~exclusively on private property, as defined under s. 23.33 (1) (n), exclusively~~
7 operated by the snowmobile owner or a member of his ^{or her} immediate family on land that
8 is owned or leased by the snowmobile owner or his ^{or her} immediate family may be
9 registered for private use. A snowmobile public-use registration certificate is valid
10 for 2 years beginning on the July 1 prior to the date of application if registration is
11 made prior to April 1 and beginning on the July 1 subsequent to the date of
12 application if registration is made after April 1 and ending on June 30, 2 years
13 thereafter. A snowmobile private-use registration certificate is valid from the date
14 of issuance until ownership of the snowmobile is transferred. The fee for the issuance
15 or renewal of a public-use registration certificate is \$30, except that the fee is \$5 if
16 it is a snowmobile owned and operated by a political subdivision of this state. There
17 is no fee for the issuance of a private-use registration certificate or for the issuance
18 of a registration certificate to the state.

History: 1971 c. 211, 277; 1973 c. 298; 1975 c. 39 ss. 693g to 693m, 734; 1975 c. 224; 1977 c. 29, 402; 1979 c. 32; 1979 c. 34 ss. 1072, 2102 (39) (a); 1979 c. 221; 1981 c. 20, 294, 295; 1983 a. 27 ss. 1709, 1710, 2202 (38); 1983 a. 36, 405; 1985 a. 29 s. 3202 (39); 1985 a. 68, 322; 1985 a. 332 ss. 211, 253; 1987 a. 27, 129, 399; 1989 a. 31, 270, 336; 1991 a. 39, 269, 316; 1993 a. 16, 405, 436; 1995 a. 27, 225; 1997 a. 27, 237; 1999 a. 9; 2001 a. 16; 2003 a. 166, 321; 2005 a. 25, 481; 2007 a. 226; 2011 a. 32, 257.

Gibson-Glass, Mary

From: Rep.Mursau
Sent: Monday, August 27, 2012 3:13 PM
To: Gibson-Glass, Mary
Attachments: 20120827152541193.pdf

Mary,

I understand drafting requests are currently being accepted and LRB will work on them will begin in September.

Please draft the following bill for the 2013 legislative session.

Please draft a bill that would combine 2011 LRB 0691/P1 with my attached answers to questions raised on the /P draft.

Per question #2 from the previous drafting request, please create an effective date of 6 months following enactment with a requirement the program be implemented no later than January 1, 2014.

Please feel free to contact me or my staff should you have any questions.

Representative Jeff Mursau
Wisconsin State Assembly
36th Assembly District
Committee on Natural Resources, Chair
Committee on Forestry, Chair
Committee on Agriculture, Member
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